

Senate File 2073 - Introduced

SENATE FILE 2073

BY NUNN

A BILL FOR

1 An Act providing for an affirmative defense to certain claims
2 relating to personal information security breach protection.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 715C.2, subsection 9, paragraph a, Code
2 2020, is amended to read as follows:

3 a. A violation of this ~~chapter~~ section is an unlawful
4 practice pursuant to section 714.16 and, in addition to the
5 remedies provided to the attorney general pursuant to section
6 714.16, subsection 7, the attorney general may seek and obtain
7 an order that a party held to violate this section pay damages
8 to the attorney general on behalf of a person injured by the
9 violation.

10 Sec. 2. NEW SECTION. 715C.3 Affirmative defense for
11 implementation of cyber security program.

12 1. It is an affirmative defense to any claim or action
13 alleging that a person's failure to implement reasonable
14 security measures resulted in a breach of security, that the
15 person established, maintained, and complied with a written
16 cyber security program that conforms to current and accepted
17 industry standards regarding cyber security and personal
18 information security breach protection, including the national
19 institute of standards and technology's framework for improving
20 critical infrastructure cyber security.

21 2. An affirmative defense under this section shall be
22 established by a preponderance of the evidence.

23 3. This section shall not be construed to create a private
24 right of action with respect to a breach of security.

25 EXPLANATION

26 The inclusion of this explanation does not constitute agreement with
27 the explanation's substance by the members of the general assembly.

28 This bill establishes an affirmative defense to any claim
29 or action alleging that a person's failure to implement
30 security measures resulted in a breach of security that the
31 person established, maintained, and complied with a cyber
32 security program that conforms to current and accepted industry
33 standards regarding cyber security, including the national
34 institute of standards and technology's framework for improving
35 critical infrastructure cyber security.

1 The bill provides that an affirmative defense under the bill
2 shall be established by a preponderance of the evidence. The
3 bill also provides that it shall not be construed to create a
4 private right of action with respect to personal information
5 security breaches.